IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1624 OF 2005

Amir Saddruddin Khan @ Ammu ...Petitioner

V/s.

The State of Maharashtra & Anr. ...Respondents

Mrs. V.V. Thorat for the Petitioner.
Ms. M.M. Deshmukh A.P.P. for the Respondents.

CORAM : A.S. OKA, J.
DATED : JULY 04, 2005.

P.C.:

1. Rule. Learned A.P.P. waives service. By consent taken up for hearing forthwith. The challenge in this Petition under Articles 226 and 227 of the Constitution of India is to the show-cause notice issued under section 111 of the Code of Criminal Procedure, 1973 dated 19th May, 2005 against the Petitioner and a summons under section 113 of the said Code dated 19th May, 2005. By summons under section 113 of the said Code, the Petitioner was called upon to show cause as to why he should not be directed to furnish surety as mentioned in the said summons.

2. The learned Counsel for the Petitioner submitted that the Applicant is sought to be victimised by an Officer attached to Oshiwara Police Station. The learned Counsel further submitted that the notice and the summons has been issued without any basis at all and same deserves to be quashed and set aside. The

learned A.P.P. has submitted that as Petitioner challenges show cause notice no interference is called for.

3. I have considered the submissions. Normally, this Court does not interfere with the show cause notice in a Petition under Article 226 and 227 of the Constitution of India. It is for the Petitioner to approach the authority concerned and file a reply.

4. However, in view of specific assertions made by the Petitioner in paragraph No.5 of the Petition, the Petitioner deserves limited protection. If orders are passed against the Petitioner, the Petitioner will have to be protected for a period of fifteen days against enforcement of the said orders.

5. Hence, the Petition is disposed of by passing following order:

: O R D E R :

i) It will be open for the Petitioner to file a reply to show cause notice under section 111 and to summons under section 113 of the Code of Criminal Procedure, 1973, if not filed till today, within a

period of four weeks from today.

ii) The Special Executive Magistrate after giving opportunity to the Petitioner of being heard will pass appropriate orders.

iii) If the orders passed are adverse to the Petitioner, the same shall not be given effect to in any manner for the period of fifteen days from the date of communication of the orders to the Petitioner.

iv) All questions on merit are kept open.

v) Rule is made partly absolute in above terms.

. Parties to act upon an authenticated copy of this order.

JUDGE